

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FIRST AMERICAN SALES GROUP,)	
INC.)	
_____)	CASE NO. 96-404
)	
FAILURE TO COMPLY WITH KRS)	
278.140)	

O R D E R

On August 26, 1996, the Commission ordered First American Sales Group, Inc. ("First American") to show cause why it should not be penalized for failing to comply with KRS 278.140 and 278.230(3). A hearing in this matter was held on October 2, 1996. Neither First American nor its attorney appeared.

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. First American owns, controls, operates, and manages facilities which are used for and in connection with the transmission or conveyance of messages by telephone for the public for compensation. It is therefore a utility subject to Commission jurisdiction. KRS 278.010(3)(d).
2. KRS 278.140 requires every utility, on or before March 31 of each year, to file with the Commission a report of its gross earnings or receipts derived from intrastate business for the preceding calendar year.
3. KRS 278.230(3) directs every utility, when required by the Commission, to file with it any report or other information that the Commission reasonably requires.

4. Commission Regulation 807 KAR 5:006, Section 3(1), requires every utility to file with the Commission on or before March 31 of each year a financial and statistical report of its utility operations for the preceding calendar year on forms furnished by the Commission.

5. On or about January 3, 1996, the Commission mailed to First American two copies of its standard forms for report of gross earnings derived from intrastate business and for the annual financial and statistical report with a letter of instruction to complete the forms for the 1995 calendar year operations.

6. As of April 23, 1996, First American had neither filed these reports for the 1995 calendar year operations nor requested an extension of time in which to make such filing.

7. On May 16, 1996, the Commission advised First American by letter that the required reports were past due.

8. Commission Staff subsequently contacted First American by telephone and advised that the required reports were past due.

9. As of the date of this Order, First American has not filed a report of gross earnings derived from intrastate business nor an annual financial and statistical report for its 1995 calendar year operations.

10. Where the act which a utility is required to do is merely clerical in nature, willfulness or deliberate intent can be inferred from the fact of noncompliance. See Re Dyke Water Company, 55 PUR3d 342 (Cal. P.U.C. 1964).

11. First American has willfully failed to submit reports required by KRS 278.140.

12. First American has willfully failed to submit reports required by Commission Regulation 807 KAR 5:006, Section 3(1).

13. First American has willfully failed to comply with KRS 278.230(3).

14. First American should be assessed a penalty of \$250 for its willful failure to comply with KRS 278.140 and KRS 278.230(3).

IT IS THEREFORE ORDERED that:

1. First American is assessed a penalty of \$250 for its willful violation of KRS 278.140 and KRS 278.230(3).

2. First American shall pay the assessed penalty within 20 days of the date of this Order. Payment shall be made by certified check or money order made payable to "Treasurer, Commonwealth of Kentucky" and shall be mailed or delivered to Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky 40602.

3. Within 20 days of the date of this Order, First American shall file with the Commission a completed report of its gross earnings derived from intrastate business for 1995.

Done at Frankfort, Kentucky, this 18th day of November, 1996.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt
Chairman

EC J. Blum
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Don Mills
Executive Director